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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,122	08/25/2003	Nicholas Edward Fenelli	07002.170	9832
44362	7590	11/20/2006	EXAMINER	
HALL, MYERS, VANDE SANDE & PEQUIGNOT, LLP 10220 RIVER ROAD, SUITE 200 POTOMAC, MD 20854			BOEHLER, ANNE MARIE M	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,122

Applicant(s)

FENELLI ET AL.

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 6, 14 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-13, 15 and 17-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1, 3, 5, 7-13, 15, 17-23, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, applicant refers to the "X and Y axis" of the operating station assembly and of the vehicle and indicates that the two axes remain the same regardless of the position of the operator station. However, applicant's disclosure and claims have not clearly defined what applicant means by "the X and Y axis". A three-dimensional coordinate system has an x-axis, a y-axis and a z-axis (as applicant has defined in claim 2), not an "X and Y axis". Also, applicant has not defined the relationship between the coordinate system and the controller and vehicle. Normally, a coordinate system, once defined, does not move. If applicant's coordinate systems are fixed with respect to some particular structure (for example, an axis extending longitudinally through a handlebar), then that must be stated. It appears that applicant means to indicate that an axis of the controller (it's transverse axis) remains parallel to an axis of the vehicle when the controller is moved relative to the vehicle. In that case, the axes do not remain "the same" as each other, as claimed, but rather they remain parallel.

Claims 5, 7-13, 15, 17-23 and 25 all depend from claim 3. However, it appears that applicant meant to claim them as depending from claim 4. For example, in claim 5, "the second linkage" lacks antecedent basis and context if it depends from claim 3, but claim 5 is clear if it depends from claim 4. Correction is required.

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2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification lacks clear antecedent basis for the x, y, and z axis of the controller and the machine (claim 2).

3. The disclosure is objected to because of the following informalities: the specification refers to "X and Y axes". However, this phrase is not used consistent with normal usage of that type of terminology and applicant fails to clearly define what the phrase means.

Appropriate correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 24, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by York (USPN 4,209,074).

York teaches a positioning system for a controller of a work vehicle that keeps the orientation of the controller 20 about at least one axis constant when the controller position is changed. The position is changeable vertically and horizontally.

6. Claims 5, 7-13, 15, 17-23 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claim 4, 6, 14, and 16 are allowed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Peifer and Kanzler each show an adjustable control console.

Harris and Ilon show vehicles with omni-directional wheels.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 11/13/08
Anne Marie M. Boehler
Primary Examiner
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